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Robert M. McDowell, Commissioner
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Please find enclosed 10 copies of the Trinity-Noble Petition for Rulemaking. If you have any questions please do not hesitate to contact me.

Yours Truly,

A handwritten signature in black ink, appearing to read "Jeremy Chalmers", written over a diagonal line that extends from the signature towards the top right of the page.

Jeremy Chalmers
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Trinity-Noble Petition for Rulemaking



September 18, 2009

Chairman Julius Genachowski, Commissioner

Michael J. Copps, Commissioner

Robert M. McDowell, Commissioner

Meredith Attwell Baker, Commissioner

Robert M. McDowell, Commissioner

Federal Communications Commission

445 12th Street, SW

Washington, DC 20554

Petition for Rulemaking of Trinity-Noble LLC

Dear Commissioners,

Please let me introduce myself. I am General Counsel for Trinity-Noble, a company that preserves human life through innovative solutions. Our mission is to leverage our technical prowess to help enforce the law and save lives on our highways and byways every day. Through unique and effective technology, our products will change and eliminate the threats of dangerous cellular device usage on our roads.

In furtherance of said mission pursuant to 47 C.F.R. § 1.401, Trinity-Noble files this Petition for Rulemaking to allow for the authorization and certification of an intentional radiator in accordance with 47 C.F.R. § 15.201.¹ A product we call Guardian Angel, designed to prevent dangerous, in many cases illegal, driver cell phone use, including texting, by denying a cell phone signal as long as certain criteria are present (the vehicle is travelling faster than 10 MPH for example, etc.).

In the United States cell phones operate by sending signals about the 800 and 1,900 megahertz range of the electromagnetic spectrum. The Guardian Angel device transmits a low power signal, in the car², on those same frequencies, which jams or interferes with

¹ Equipment authorization requirement.

² A child's car is constitutionally protected personal property. In most cases law enforcement would have to have a warrant to search or wire tap the driver compartment of a privately owned vehicle.



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any devices trying to receive in that range when the vehicle is traveling over a certain speed. Notably the signal emitted ONLY jams the unwelcomed electromagnetic spectrum inside the car and creates virtually NO outside interference. Therefore the old industry argument against jamming, “the commercial enterprise purchased rights to use the spectrum and jamming their signal is a kind of property theft”, is totally inapplicable. Preventing unauthorized communication in the property owner’s constitutionally protected personal space by emitting a signal in the same constitutionally protected space is very different from the malicious use of a jamming device in a public area to prevent an otherwise legal but “annoying” communication. (See Appendix A for discussion of DA-05-1776)

The parent/owner clearly has the right to prohibit dangerous activities like texting while driving over a certain speed. Likewise an employer clearly has the right to prohibit an employee from texting while driving a company vehicle. However currently, absent taking the mobile device or covering the vehicle in lead³, the parent/employer has no way to prevent the practice. Such extreme measures should not be required because mobile devices are and must be recognized as important safety tools. Trinity-Noble simply stands for the proposition that parents and employers should have the right to establish the appropriate and inappropriate conditions based on speed of travel for use.

Trinity-Noble would note that the FCC has a history of helping parents protect their children through blocking or jamming certain communications. Currently the FCC requires the “v-chip” in certain consumer electronic equipment to “provide parents with useful tools to block programming they believe harmful to their children.”⁴ Logic dictates that the FCC should likewise allow parents the ability to protect their children by blocking the potentially deadly practice of using a cell phone while operating a motor vehicle.

From a legal perspective, vehicle owners, both the parent and employer, are liable for authorized drivers’ actions and should have the right to eliminate a foreseeable deadly practice. There is simply no question that a child or employee who causes an accident while texting while driving creates liability for the owner.

Trinity-Noble is simply seeking FCC authority to OFFER into the free market a product that provides parents and others an option to save lives by preventing unauthorized, and in many cases, illegal communications.

³ Should ensure that no signals get in or out

⁴Report No. GN 98-3 GENERAL ACTION March 12, 1998

COMMISSION FINDS INDUSTRY VIDEO PROGRAMMING RATING SYSTEM ACCEPTABLE; ADOPTS TECHNICAL REQUIREMENTS TO ENABLE BLOCKING OF VIDEO PROGRAMMING (THE “V-CHIP”) (CS DOCKET NO. 97-55, CS DOCKET NO. 97-321, ET DOCKET 97-206)

http://www.fcc.gov/Bureaus/Cable/News_Releases/1998/nrcb8003.html



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This petition is timely as texting while driving has captured the attention of the country. President Obama's U.S. Transportation Secretary Ray LaHood recently announced a summit to address the dangers of text-messaging and other distractions behind the wheel.

"If it were up to me, I would ban drivers from texting, but unfortunately, laws aren't always enough," said Sec. LaHood. "We've learned from past safety awareness campaigns that it takes a coordinated strategy combining education and enforcement to get results. That's why this meeting with experienced officials, experts and law enforcement will be such a crucial first step in our efforts to put an end to distracted driving."⁵

Trinity-Noble has accepted an invitation and looks forward to attending Secretary LaHood's summit to discuss potential ways to prevent distracted driving. Trinity-Noble agrees that legislation alone will not be enough and believes that free market capitalism will and must help solve the problem. But for free market capitalism to work the new FCC must work with entrepreneurs like Trinity-Noble to manage archaic rules to support cutting edge technology. (See Exhibit 1 for Patent Documents)

The FCC has been aware of Trinity-Noble and the Guardian Angel device for over a year. Despite the fact the prior administration was in possession of a petition by Trinity-Noble to allow voluntary focused, directional jamming in automobiles and trains since January 12, 2009, the prior administration took zero action. In the same letter Trinity-Noble requested: "In the interim, we hereby petition for immediate written confirmation that the FCC will endorse a pilot program allowing the use of our technology within automobiles and trains where cell phone use by the driver is prohibited. We look forward to your prompt response." (For full text see Appendix B & C) Perhaps due to technical reasons the FCC never even acknowledged the request. A poor excuse considering how many lives could have been saved if the Commission had acted on the request. Another potential factor could have been input from the CTIA. At the same time Trinity-Noble was seeking approval for an intentional radiator jamming device, the CTIA was fighting tooth and nail to prevent authorization of any and all such devices. (See Appendix D for more detail on CTIA filings and FCC decisions) Disturbingly, during a visit with the FCC, Trinity-Noble was encouraged to seek the feedback of the CTIA. Along with Commissioner Copps, Trinity-Noble welcomes the "Refreshing reform breezes ... blowing through the corridors of power all over this city."⁶

But CTIA will have a difficult time contesting the pending application in light of the following statements. CTIA-The Wireless Association® and the wireless industry now believe "when it comes to using your wireless device behind the wheel, it's important to

⁵Tuesday, August 4, 2009 Transportation Secretary Ray LaHood Announces Distracted Driving Summit <http://www.dot.gov/affairs/2009/dot11409.htm>

⁶REMARKS OF FCC ACTING CHAIRMAN MICHAEL J. COPPS PIKE & FISCHER'S BROADBAND POLICY SUMMIT V WASHINGTON, DC JUNE 18, 2009



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remember safety always comes first and should be every driver's top priority. While mobile devices are important safety tools, there's an appropriate time and an inappropriate time to use them."⁷

Trinity-Noble agrees with the CTIA that mobile devices are important safety tools. Guardian Angel Guardian Angel is not designed to prevent communication but allows the owner to determine at what speed the risk associated with cell phone use becomes too great to bear.

But most importantly CTIA has taken the position:

"We believe text-messaging while driving is incompatible with safe driving, and we support state and local statutes that ban this activity while driving.

We also agree with proposals that restrict or limit cellular use by inexperienced or novice drivers. Just as many states have graduated drivers' laws, such as restricting the number of passengers or nighttime hours of driving, the industry believes restricting a young driver's use of wireless while becoming better-skilled at the primary driving tasks makes sense."

Trinity-Noble files this petition for rulemaking because the Guardian Angel device is not in full compliance with the certification procedures found in 47 C.F.R. § 2.911⁸ and § 2.913⁹ as directed in 47 C.F.R. § 15.201.

THE RULES

Section 302(b) of the Act states: "[n]o person shall manufacture, import, sell, offer for sale, or ship devices or home electronic equipment and systems, or use devices which fail to comply with regulations promulgated pursuant to this section."

Section 15.201(b) of the Rules, 47 C.F.R. § 15.201(b), provides that, "intentional radiators¹¹ operating under the provisions of ... [Part 15] shall be certificated by the Commission. ..." Unfortunately as the rules currently read the device does not meet the technical certification requirements of 47 C.F.R. § 15.209. Therefore Trinity-Noble request that the FCC initiate rulemaking to protect the public safety by permitting jamming of Commercial Mobile Radio Services (CMRS) within the confines of constitutionally protected personal property, namely a vehicle.

PROPOSED RULE CHANGE

Amend 47 C.F.R. § 15.209 by adding a subpart (h) to establish certification standards for:
Adaptive Intentional Radiators-A system designed to radiate only when triggered by a condition determined to be an action which jeopardizes the safety of an operator of a vehicle, it's occupants or other human life external to the moving

⁷ CTIA website

⁸ **Written application required.**

⁹ **Submittal of equipment authorization application or information to the Commission.**

¹¹ An "intentional radiator" is "any device that intentionally generates radio frequency energy by radiation or induction." See 47 C.F.R. §15.3(o)



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vehicle.

And

Cellular Phone Inhibitors- A subsystem designed for permanent in-vehicle installation designed for the purpose of blocking the vehicle operator's cellular phone service.

In order to obtain certification and authorization both "Adaptive Radiator's" and "Cell Phone Inhibitors" shall be designed to:

- 1) Obtain prime power from the vehicular power system.
- 2) Not be capable of removal from the host system as installed and calibrated.
- 3) Detect if cellular communications are attempted in the vehicle operators physical position prior to transmission.
- 4) When cellular communication is attempted, transmit a limited RF radiation signal directed at the vehicular operators location.
- 5) RF transmission occurs above a pre-set vehicular speed.
- 6) Be restricted to the cellular receive frequency band.
- 7) Be limited in power level as measured external to the vehicle, 3 meter distance, to not exceed 20 millivolts/meter.
- 8) Operate with a chirp at a rate above 65 KHz.

Trinity-Noble estimates that there is less than 1/10 of one percent (0.0001) chance that the Guardian Angel device will interfere with any cell phone service in an adjacent vehicle. In such a case the interference would only exist as long as the two vehicles traveled at the exact same speed in very close proximity. The probability of interference lasting for more than a second is miniscule. In addition, considering the fact that only a tiny fraction of calls are of an emergency nature, the odds of interfering with an emergency call are truly remote. Trinity-Noble believes the remote possibility of some interference is far out weighed by the safety gains of drivers not texting or otherwise participating in distracting behavior. Finally, Trinity-Noble would note that as an unlicensed operator the cell phone user in the adjacent vehicle has the lowest standing to object to the less than 1/1000 of one percent potential of a dropped emergency call.

After an appropriate Rule Change the Guardian Angel, could be certified by the Commission in accordance with the procedures specified in Part 2, Subpart J, of the Rules. Guardian Angel would meet the "Grant of Application" requirements codified in 47 C.F.R. § 2.915 (a)(2) as a product designed to provide parents and others a means to protect their children and/or employees from dangerous and soon to be illegal communications.¹³

Representative McCarthy introduced H.R. 3535 on September 8, 2009, summarizing the problem nicely in the press release:

¹³ **TITLE 47—Telecommunication CHAPTER I--FEDERAL COMMUNICATIONS COMMISSION SUBCHAPTER A—GENERAL PART 2--FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS Subpart J--EQUIPMENT AUTHORIZATION PROCEDURES**



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“With the advent of “smart” devices that provide access to e-mail, text messaging, the Internet and more, individuals are becoming increasingly reliant upon mobile technology in their everyday lives. While the benefits of such devices are undeniable, the dramatic rise in usage has been coupled with a tragic increase in automobile accidents caused by drivers who are writing, sending, or reading messages on these devices. These accidents, along with several prominent studies on the subject, reveal frightening truths that compare such driver behavior to drunk driving.”

The proposed legislation is a companion bill to S 1536 introduced by Senator Schumer on July 29, 2009.

FOR IMMEDIATE RELEASE: July 29, 2009

SCHUMER, MENENDEZ, LANDRIEU AND HAGAN UNVEIL FIRST-EVER LEGISLATION TO BAN ALL DRIVERS FROM TEXTING WHILE OPERATING A VEHICLE

Recent Virginia Tech Study Found Drivers Who Send Texts Are 23 Times More Likely To Get into an Accident; Other Research Concluded Practice Is More Dangerous Than Drunk Driving

Texting Ban Applies To Anyone Operating Cars, Trucks Or Most Mass Transit; States Would Risk Losing Federal Highway Funds If Fail To Comply

Senators: It's Time For Drivers to Get Their Eyes off Their Phones and Back on The Road¹⁴

In addition, the Governors Highway Safety Association (GHSA) has enacted a new policy encouraging every state to ban texting behind the wheel for all drivers. According to GHSA Chairman Vernon F. Betkey Jr., “The action by the GHSA membership is based on the fact that texting while driving is indisputably a distraction and a serious highway safety problem.”¹⁵

GHSA has also stated:

High-profile crashes and tremendous media coverage have dramatically increased the interest in distracted driving, particularly crashes involving cell phone use and texting. GHSA recognizes that all cell phone use and texting while driving are extremely dangerous and, therefore, strongly discourages anyone from using a cell phone for any purpose while driving. Drivers need to focus on the

¹⁵ http://www.ghsa.org/html/media/pressreleases/2009/200908_txt.html

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driving task and restore some common sense to driving.¹⁶

In the same document GHSA recommended a variety of actions the federal government could take to help states best respond to distracted driving including but not limited to:

Support technological solutions that minimize driver distraction.

Technology has created this issue, but it can also be part of the solution. GHSA is very interested in systems that automatically disengage a driver's cell phone while the driver is driving. These voluntary systems could be particularly useful tools for parents of teen drivers or for employers who want to monitor their employees' cell phone use while on work business.

Guardian Angel, a voluntary free market device, clearly serves the public interest by preventing deadly illegal communications.

With the rule amendment, Guardian Angel would also meet the requirements of 47 C.F.R. § 2.915 (a)(1) as it would be capable of complying with the *technical* standards of the rules governing intentional radiators.

In support of the petition for rulemaking, Trinity-Noble would show that there is no question that the device complies with the intent of the rules. The 1934 Communications Act was created "for the purpose of promoting safety of life and property through the use of wire and radio communication"¹⁷ The intent of the Act must be a significant factor in the FCC's interpretation of 47 U.S.C. § 302 which grants the Commission great discretion in determining what constitutes harmful interference when dealing with devices which intentionally interfere with regulated reception.¹⁸ Harmful Interference is

¹⁶ September 14, 2009 GHSA Outlines Distracted Driving Position

<http://www.ghsa.org/html/issues/politico.html>

¹⁷ SEC. 1. [47 U.S.C. 151] PURPOSES OF ACT, CREATION OF FEDERAL COMMUNICATIONS COMMISSION.

For the purpose of regulating interstate and foreign commerce in communication by wire and radio so as to make available, so far as possible, to all the people of the United States, without discrimination on the basis of race, color, religion, national origin, or sex, a rapid, efficient, Nationwide, and world-wide wire and radio communication service with adequate facilities at reasonable charges, for the purpose of the national defense, for the purpose of promoting safety of life and property through the use of wire and radio communication, and for the purpose of securing a more effective execution of this policy by centralizing authority heretofore granted by law to several agencies and by granting additional authority with respect to interstate and foreign commerce in wire and radio communication, there is hereby created a commission to be known as the "Federal Communications Commission," which shall be constituted as hereinafter provided, and which shall execute and enforce the provisions of this Act. (emphasis added)

¹⁸ 47 U.S.C. § 302 DEVICES WHICH INTERFERE WITH RADIO RECEPTION

(a) The Commission may, consistent with the public interest, convenience, and necessity, make reasonable regulations (1) governing the interference potential of devices which in their operation are

Trinity-Noble Petition for Rulemaking

defined as "Interference which endangers the functioning of a radio navigation service or of other safety services or seriously degrades, obstructs, or repeatedly interrupts a radio communication service operating in accordance with these [international] Radio Regulations."¹⁹ Based on information and belief the FCC has never considered anyone only interfering with a signal in or on their own private property to be considered harmful and illegal. Therefore-Trinity Noble would show that the FCC can and must reasonably conclude the Guardian Angel device does not emit harmful interference. Such an interpretation should be given great deference. The SUPREME COURT OF THE UNITED STATES has opined on other government agency interpretations.

[w]e must give substantial deference to [its] interpretation of its own regulations. Our task is not to decide which among several competing interpretations best serves the regulatory purpose. Rather, the agency's interpretation must be given controlling weight unless it is plainly erroneous or inconsistent with the regulation. In other words, we must defer to the [agency's] interpretation unless an alternative reading is compelled by the regulation's plain language or by other indications of . . . *intent* at the time of the regulation's promulgation. (emphasis added)

Thomas Jefferson Univ. v. Shalala, 512 U.S. 504, 512 (1994) (quotations and citations omitted). See also Santa Fe Energy Prod. Co. v. McCutcheon, 90 F.3d 409, 413 (10th Cir. 1996). When an agency applies its "regulation to complex or changing circumstances," the Court has explained, this "calls upon the agency's unique expertise and policymaking prerogatives" and courts must "presume that the power authoritatively to interpret its own regulations is a component of the agency's delegated lawmaking powers." Martin v. Occupational Safety & Health Review Comm'n, 499 U.S. 144, 151 (1991).²⁰

The FCC must also apply its unique expertise and policy making prerogative to interpret the Guardian Angel device as it relates to the prohibitions found in §333 of the Communications Act. For the record §333 was drafted nearly 30 years ago when cell phone technology was in it's infancy and texting while driving was never a consideration. For detailed discussion of §333 see p 5-9 of Appendix C.

§333 of the Communications Act, provides:

capable of emitting radio frequency energy by radiation, conduction, or other means in sufficient degree to cause ***harmful interference*** to radio communications. (emphasis added)
(b) No person shall manufacture, import, sell, offer for sale, or ship devices or home electronic equipment and systems, or use devices, which fail to comply with regulations promulgated pursuant to this section.

¹⁹ 47 U.S.C. § 2.1 Terms and definitions (c) The following terms and definitions are issued:

²⁰ UNITED STATES COURT OF APPEALS TENTH CIRCUIT No. 97-9579

ROCKY MOUNTAIN RADAR, INC., Petitioner, v. FEDERAL COMMUNICATIONS COMMISSION, Respondent.
PETITION FOR REVIEW (FCC No. 97-404)

<http://www.fcc.gov/ogc/documents/opinions/1998/rockymtn.html>



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No person shall willfully or maliciously interfere with or cause interference to any radio communications of any station licensed or authorized by or under this Act or operated by the United States Government.

Nothing in §333 prohibits per se, the right of the owner of private property from only jamming communications in or on their own private property. The recently filed Petition for Rulemaking of South Carolina Department of Corrections²¹ supports such an interpretation.

It is clear that Congress, in deliberating this matter (§333), did not intend to limit the jurisdiction of the Commission by forbidding it from ever authorizing any jamming. Indeed, it is clear that the Commission requested this legislation in response to a series of intentional jamming incidents in which the jammer was using a licensed transmitter and thus could not be prosecuted for criminal violation of Section 301. The Senate report summarized the impact of the new legislation by stating, "The reported bill remedies this situation by giving the FCC the explicit authority to halt willful or malicious interference ... " This is a far cry from a Congressional mandate to never authorize any jamming.

Conclusion

Trinity-Noble congratulates the mobile phone industry for the spectacular innovations rolled out the last few years. However, Trinity-Noble long ago recognized that the amazing growth in mobile device use also has deadly unintended consequence. In the true spirit of American free market capitalism, Trinity-Noble applied for and received a patent for a device that has the potential to eliminate the deadly unintended consequence of texting while driving. Years later, due to FCC rules, the product is still not on the market. Trinity-Noble has now filed this rule amendment, in full compliance with FCC rules, and the company's fate, and an untold number of lives, hinge on the Commission's ability to apply archaic regulations to a new and changing communication landscape. Trinity-Noble holds firm in the belief that a parent has the right to limit communications in the personal space of constitutionally protected private property. Similar to prior FCC action concerning the "V" chip parents deserve the option to install a device to block and protect their children from harmful communications. Preventing a child from texting while driving is very different from the malicious intentional jamming of an annoying public talker. The FCC must acknowledge the difference and amend the rules to allow the free market laws of supply and demand to dictate the fate of Trinity-Noble's Guardian Angel device.

Questions concerning this petition should be addressed to:

Jeremy Chalmers
General Counsel

²¹ File August 6, 2009 WT Docket No. 09-30



Trinity-Noble Petition for Rulemaking

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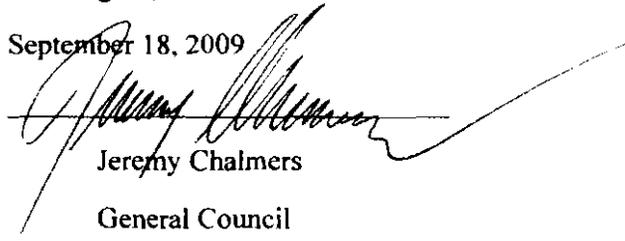
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Appendix A

The use of jamming devices in public areas of “annoying” communications led the FCC to published notice DA-05-1776 which referenced §333 of the Communications Act. The public notice stated, “Inquiries about the use of cellular jammers are often accompanied by comments that the use of wireless phones in public places is disruptive and annoying. Advertisements for cellular jammers suggest that the devices may be used on commuter trains, in theaters, hotels, restaurants and other locations the public frequents.”

For the record Trinity-Noble does not support FCC authorization of jamming devices that are designed for intentional and malicious interference with such legal communication.

The notice also stated: “In response to multiple inquiries concerning the sale and use of transmitters designed to prevent, jam or interfere with the operation of cellular and personal communications service (PCS) telephones, the Federal Communications Commission (FCC) is issuing this Public Notice to make clear that the marketing, sale, or operation *of this type of equipment* is unlawful.”²³ (Emphasis added)

Clearly the Guardian Angel device is not the same type of equipment. Trinity-Noble is attempting to block deadly communications not “annoying” communications. The product is fixed not portable. The “jammed” signal is on/in private property not a public place. There is no interference with cell phone use outside the vehicle.

²³ **Sale or Use of Transmitters Designed to Prevent, Jam or Interfere with Cell Phone Communications is Prohibited in the United States**
http://www.fcc.gov/eb/Public_Notices/DA-05-1776A1.html

Trinity-Noble Petition for Rulemaking



January 12, 2009

Chairman Kevin J. Martin
Commissioner Michael J. Copps
Commissioner Jonathan S. Adelstein
Commissioner Deborah Taylor Tate
Commissioner Robert M. McDowell
445 12th Street, SW
Washington, D.C. 20554

Dear Commissioners,

Approximately one year ago, my partners and I met with FCC staff from the Office of Engineering and Technology as well as FCC Counsel, Matthew Berry, to discuss our proprietary technology, a product we call Guardian Angel with Celltinel, for the prevention of dangerous, illegal cell phone use by drivers of motorized vehicles particularly teenage drivers but also rail engineers, bus drivers, and truck drivers who are responsible for other people's safety when driving.

Our device would prohibit the life-threatening practice of texting, browsing the Internet, and/or dialing a handheld phone while driving by denying a cell phone signal for the driver as long as certain criteria were present (driver's cell phone is not coupled with the device via a Bluetooth-enabled hands-free device, the vehicle is traveling faster than 15 MPH for example, etc.). We were informed during our visits to the FCC that that we may not be compliant with §333. We reviewed §333 and subsequently submitted a white paper to the FCC presenting our argument that our device should not be subject to the apparent ban of the statute for at least three reasons.

1. The emissions are not willful and malicious
2. The Celltinel technology furthers, rather than contravenes, public policy. It advances the very purpose that §333 was designed to achieve.
3. The Guardian Angel device is fully consensual and does not thrust an adverse consequence on an unsuspecting person.

On both occasions when we met with FCC staff we were encouraged to seek the feedback of the CTIA, something we diligently have attempted on many occasions via phone and e-mail over the course of the past year. We have never received acknowledgement of any of our communications from the CTIA.

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We have been monitoring the recent attempts of CellAntenna Corporation to perform tests of their jamming technology at several prisons within the United States to prevent inmates from conducting illegal communications while incarcerated. We find it highly unusual and contradictory that the very individuals we've contacted at the CTIA are the same individuals thwarting CellAntenna's progress, stating CellAntenna's technology provides "no exigent public-safety need". My company argues that our technology does in fact provide an exigent public safety need and that is the prevention of text messaging and browsing the Internet while driving which has been proven in many cases around the globe to be the key factors in many car and rail accidents (most recently there was a train disaster in California where the engineer was texting just seconds prior to an accident that took the lives of 25 people).

We hereby petition for amendment to FCC rules to allow the focused, directional jamming in automobiles and trains as needed to protect public safety.

In the interim, we **hereby petition for immediate written confirmation** that the FCC will endorse a pilot program allowing the use of our technology within automobiles and trains where cell phone use by the driver is prohibited. We look forward to your prompt response.

Sincerely,

Joseph P. Brennan

cc: Senator Arlen Specter (for distribution to all Senators)
Senator Daniel Inouye (for distribution to all Senators)
Representative Patrick Murphy (for distribution to all Representatives)
Joseph V. Kuklis
Dorothy Nakama
Matthew Berry
Christopher Guttman-McCabe

THE CELLINEL SOLUTION

I. BACKGROUND

An increasingly severe and well-documented vehicular safety hazard is the driver's distraction caused by using hand-held cell phones. This multitasking includes driving while text messaging, driving while "surfing" the Internet on their cell phone, receiving/responding to e-mails, driving while having phone conversations, and watching video content. The crisis is especially severe for youthful drivers who tend to "multitask." In response, many jurisdictions have enacted outright bans on mobile devices in moving vehicles unless used in a hands-free mode.¹ This remedy, though, denies drivers the use of their hand-held phones in emergencies and is not reliable, as it depends upon voluntary compliance or law enforcement. It exposes the owners of commercial vehicles to civil liability from others who might be injured in accidents caused by their driver's illegal use of hand-held mobile phones.

The Celltinel is a sensible response. It operates to deny a cell phone connection to a user in a motor vehicle traveling in excess of a specified minimum speed, currently set at 15 MPH, unless the cell phone has been paired with a currently active Bluetooth device. This is accomplished by generating an emission that prevents the cell phone from receiving a signal.

The Celltinel emission is directional and of sufficiently low power that it will work only to deny communications in an area within the vehicle compartment and produce practically no perceptible interference outside the operating vehicle. To assure that its effects are limited to that restricted area, it is designed to work only when installed in the vehicle. It is not portable and it will work only when in motion. Once installed, it is passive, and so it does not require activation in a specific instance, nor does it permit defeat by drivers who may wish to avoid its intended effect.

The Celltinel is targeted to parents, school bus supervisors, trucking companies and other fleet managers who are torn between ensuring access to emergency communications for their drivers and avoiding the risks of driver distraction that lead to highly preventable accidents. By enabling calls from a stopped or slow moving vehicle, Celltinel permits full use of cell phones for emergency communications while its emission characteristics prevent unintended interference to unsuspecting passengers and neighboring vehicles.

II. THE SCOPE OF THE PROBLEM

Highly credible studies consistently find that the vast majority of vehicular accidents are due to driver distraction and that the most common distraction is a driver's use of a mobile phone. In 2002, the Harvard Center for Risk Analysis estimated that the use of cell phones by drivers

¹ According to the Governors Highway Safety Association, five states (California, Connecticut, New Jersey, New York and Washington), the District of Columbia and the Virgin Islands have enacted jurisdiction-wide cell phone laws prohibiting driving while talking on handheld cell phones, 17 states have special cell phone driving laws for novice drivers, , and 15 states prohibit school bus drivers from all cell phone use when passengers are present, except in emergencies. http://www.ghsa.org/html/stateinfo/laws/cellphone_laws.html Last viewed March 31, 2008

caused 2,600 deaths, 330,000 moderate to critical injuries and 1.5 million instances of property damage, at a national cost of \$43 billion.² A New England Journal of Medicine study found driver impairment from talking on a cell phone to be at the same level as a drunk driver.³ A 2006 NHTSA and Virginia Tech Transportation Institute study nearly 80 percent of crashes and 65 percent of near-crashes involve some form of driver inattention within three seconds before the crash and cell phone use is one of the most common driver distractions.⁴ The trend is increasing. Already, nearly 2/3 of all drivers use cell phones while driving, and 10% are on cell phones at any given time.⁵

The problem is most severe with young drivers under 21, who are four times as likely to have inattention-related crashes and near-crashes as drivers over 35.⁶ The problems for teens just beginning to drive and their parents is recognized on the Governors Highway Safety Association website which states that:

As part of a state's Graduated Driver Licensing (GDL) law, drivers should be discouraged from all non-emergency cell phone use (or use of any other electronic devices) while driving. Young drivers have higher crash rates than more mature drivers and are particularly vulnerable to fatal crashes. Limiting cell phone use as part of a GDL system is one effective way to help reduce the number of teen traffic crashes and fatalities. GHSA encourages parents to use these bans as another tool to ensure safe driving practices by their teens.⁷

According to the Mankato Free Press: "*Teens are the ultimate multi-taskers and they're paying for it on the roads with their lives.*"⁸ (As well as the lives of others.) Studies at the University of Utah documents the dangerous distractions from cell phone use, equating a 20-year-old driver behind the wheel with a cell phone to the reaction times of a 70-year-old driver who is not using a cell phone, and liken motorists who talk on cell phones are more impaired than drunken drivers with blood alcohol levels exceeding 0.08.⁹

The number of accidents involving teens related to distracted driving isn't likely to shrink as more and more features are added to cell phones and as other electronic gadgets hit the market. Already, the leading cause of death for Minnesota's 15- to 17-year-olds is traffic crashes, according to the Minnesota Department of Health.

² Harvard Center for Risk Analysis report; Cohen, J.T. and Graham, J.D. A revised economic analysis of restrictions on the use of cell phones while driving. *Risk Analysis*. 2003; 23(1):5-17.

Also see: http://www.usatoday.com/news/nation/2004-10-19-handsfree-driving_x.htm

³ <http://content.nejm.org/cgi/content/abstract/336/7/453>

⁴ NHTSA and Virginia Tech Transportation Institute report *The Impact of Driver Inattention on Near-Crash/Crash Risk: An Analysis of 100-Car Naturalistic Driving*. Study Data reports can be found at:

<http://www.nrd.nhtsa.dot.gov/departments/nrd-13/newDriverDistraction.html> ; also see: NHTSA and Virginia Tech Transportation Institute report <http://www.vtmagazine.vt.edu/fall05/feature1.html>

⁵ Driving Under the (Cellular) Influence: The Link Between Cell Phone Use and Vehicle Crashes http://aei-brookings.org/admin/authorpdfs/redirect-safely.php?fname=../pdffiles/WP07-15_topost.pdf

⁶ Supra, at fn 4

⁷ Governor's Highway Safety Association report <http://www.ghsa.org/html/issues/cellphone.html>

⁸ http://www.mankatofreepress.com/editorials/local_story_350235947.html?keyword=secondarystory

Also see: <http://www.operationstop.com/tecndriversandcellphones.shtml>

⁹ <http://web.utah.edu/unews/releases/05/feb/cellphones.html>

Scores of additional studies and reports of cell phone dangers in the automobile environment can be gleaned from a simple Internet search. They clearly document the desirability of a solution that can enhance the safety of drivers while protecting innocent motorists and pedestrians.

III. THE LEGISLATIVE SOLUTION IS INSUFFICIENT

In one form or another, many jurisdictions have already banned the use of hand-held cell phones in vehicles.¹⁰

A jurisdiction-wide ban on driving while talking on a hand-held cellular phone is in place in 6 states (California, Connecticut, New Jersey, New York, Utah, and Washington) and the District of Columbia.

Localities are allowed to ban cellphone use in 6 states (Illinois, Massachusetts, Michigan, New Mexico, Ohio, and Pennsylvania). Localities that have enacted restrictions on cellphone use include: Chicago, IL; Brookline, MA; Detroit, MI; Santa Fe, NM; Brooklyn, North Olmstead and Walton Hills, OH; and Conshohocken, Lebanon and West Conshohocken, PA.

The use of all cellular phones while driving a school bus is prohibited in 15 states and the District of Columbia.

The use of cellular phones by teens in graduated licensing systems is restricted in 17 states and the District of Columbia.

However, local legislation is inconsistent. Thus:

Localities are prohibited from banning cellphone use in 8 states (Florida, Kentucky, Louisiana, Mississippi, Nevada, Oklahoma, Oregon, and Utah).

Eight states enforce cell phone laws as "secondary laws," under which an officer must have some other reason to stop a vehicle before citing a driver for using a cellphone. These jurisdictions are: Colorado, Maryland, Nebraska, Oregon, Utah, Virginia, Washington and West Virginia.

Utah has named the offense careless driving. Under the Utah law, no one commits an offense when speaking on a cellphone unless they are also committing some other moving violation other than speeding.

Yet, studies have shown that even when implemented, cell phone bans are ineffective – after a slight decline following enactment of the law, use rebounds to the same or greater levels as before the law.¹¹ For example, a ban on hand-held cell phones by motorists in Connecticut has been called ineffective by that state's police and lawmakers, prompting the General Assembly to

¹⁰ Source: Insurance Institute for Highway Safety, See Appendix 2

¹¹ Insurance Institute for Highway Safety report: <http://www.iihs.org/sr/pdfs/sr3808.pdf>

consider even harsher ways to toughen the law and force compliance. The legislative solution has proven to be desirable, but clearly insufficient.¹²

IV. THE CELLTINEL SOLUTION

Thus there is a clear need for a device that depends upon neither driver activation nor vigilant law enforcement. Celltinel's solution is a voluntary compliance approach that can be installed by the owner of a vehicle to ensure that all its drivers will be subject to its protective operation.

The Celltinel device is installed in a vehicle under the dashboard, under the driver's seat or in the headliner above the driver. It is highly directionalized, aimed at the driver's space and affecting an area limited to the driver's immediate vicinity. The narrow beamwidth and low signal level ensure that drivers in nearby cars will be unaffected by its operation. It only operates while the vehicle is in motion (and beneath the specified speed). It can be set to be disabled when it senses Bluetooth connectivity. It does not emit in bands assigned to commercial radio, police and safety communications used by first responders, or Citizens Band communications upon which truckers and taxis routinely depend for their own safety and for the coordination and efficiency of their businesses. Nor does it affect public communication, such as cell phone use outside moving vehicles in which it is installed, nor other electrical components or devices within the vehicle that comprise its safety, GPS and entertainment systems.

Among its collateral benefits are freeing police from enforcement of current cell phone bans for more important duties, enabling employers to reduce legal liability for their agents' accidents, and potential reductions in insurance premiums. The greatest boon, though, will be in reducing the terrible waste of life, health and property caused by preventable accidents due to drivers' cell phone distraction.

V. CONSISTENCY WITH STATE AND TORT LAWS.

When a vehicle in which Celltinel is installed is operated under conditions where the state completely bans cell phone use, it will have no impact, since the calls it blocks are not permitted anyway. Similarly it will have no impact in other states permitting cell phone use, since its installation is a voluntary decision of the vehicle owner. Otherwise, the device is consistent with specific state laws, in that it can be programmed to operate consistently with the state requirements, such as where only hands-free use is permitted.

The Celltinel also enables the owner of a vehicle who desires a higher degree of self regulation to determine the permissible uses of cell phone mobile devices in the vehicles for which that owner has responsibility and liability exposure. An example may be where a commercial fleet owner has knowledge that drivers use cell phones frequently during the day and thereby increase the probability distraction and an accident. The owner might face the choice of firing the driver, or preventing all but safe use of the cell phone by installing a Celltinel.

Empowering vehicle owners with the discretion to install a Celltinel is fully consistent with general principles of tort law, which imposes liability upon one who permits a third party to

¹² Web page of WTIC-AM, Hartford CN, <http://www.wtic.com/pages/1090860.php>? Last viewed March 31, 2008

engage in a known dangerous activity or where youth, inexperience of other factors create an unreasonable risk of harm to oneself or others.¹³

VI. FCC ISSUES:

A. COMMUNICATIONS ACT §333

The Celltinel operates by emitting a radiofrequency signal, and thus is subject to the jurisdiction of the Federal Communications Commission. As an intentional radiator, the device must obtain FCC certification. A potential challenge is found in §333 of the Communications Act, which provides:

No person shall willfully or maliciously interfere with or cause interference to any radio communications of any station licensed or authorized by or under this Act or operated by the United States Government.

“Stations licensed or authorized” within the meaning of §333 would likely include cellular transmitters. However, the Celltinel device should not be subject to the apparent ban of §333 for at least three reasons.

1. The emissions are not willful and malicious
2. The Celltinel furthers, rather than contravenes public policy. It advances the very purpose that §333 was designed to achieve.
3. The Celltinel is fully consensual and does not thrust an adverse consequence on an unsuspecting person.

The legislative history of §333 is significant. Before the Communications Act was amended in 1990 to add §333, the House Report of the Energy and Commerce Committee stated that the provision was prompted by concern over a substantial increase in willful and malicious interference, primarily to amateur, maritime and Citizens Band radio services, but also to public safety, private land mobile and cable transmissions, as well as to services outside FCC

¹³ For example, the Restatement (Second) of Torts §§ 308 and 390 (1965).

Section 308 provides:

It is negligence to permit a third person to use a thing or to engage in an activity which is under the control of the actor, if the actor knows or should know that such person intends or is likely to use the thing or to conduct himself in the activity in such a manner as to create an unreasonable risk of harm to others.

Section 390 provides:

One who supplies directly or through a third person a chattel for the use of another whom the supplier knows or has reason to know to be likely because of his youth, inexperience, or otherwise, to use it in a manner involving unreasonable risk of physical harm to himself and others whom the supplier should expect to share in or be endangered by its use, is subject to liability for physical harm resulting to them.

jurisdiction, such as the FAA and the Department of Defense.¹⁴ The FCC field offices were finding increasing instances of “. . . intentional jamming, deliberate transmission on top of the transmissions of authorized operators already using specific frequencies in order to obstruct their communications or radio signals of other stations.” This resulted in “. . . local groups or radio users [attempting] to retaliate against the offenders by causing interference to their communications.” In essence, the Commission was faced with a war of specific intentional and malicious interference among licensed radio users, with insufficient and ineffective authority to deal with the situation.

The Commission requested §333 to deal with such specific and malicious interference problems it faced and for which it had only inadequate remedies. Prior to 1990 and §333, the Commission’s only recourse against a malfeasant who intentionally interfered with another’s communication was to place the wrongdoer in a lengthy and expensive administrative proceedings to revoke their operator licenses or levy what amounted to an insubstantial fine.¹⁵ At the FCC’s request, to deal with the situation, Congress criminalized the offenses, significantly heightened the available penalties and enabled FCC personnel to immediately seize offending equipment, and thus eliminate the sources of the problem quickly and efficiently.

Curiously, the Report stated the operative provision differently in two contexts: it provided for willful **or** malicious interference to government facilities but willful **and** malicious interference to other radio operation.¹⁶ The provision, as enacted, though, contained a single standard – willful **or** malicious interference – in all instances. This is explained in the Report with the statement that:

The Committee finds that placement of the proposed general prohibition against intentional interference in the Act, in addition to elevating the gravity of such violations, will increase public awareness of the prohibition against this particularly disruptive type of violation.

It is understandable that any interference to a government radio channel -- almost always used for national defense, law enforcement or first responder functions -- would be considered heinous and should be encompassed in the new prohibition. Moreover, in 1990, most federal government communications were on specific government-only frequencies, many classified,

¹⁴ Federal Communications Commission Authorization Act Of 1990, P.L. 101-396, Stat. 848, October 30, 1989, Senate Report (Commerce, Science, and Transportation Committee) No. 101-215, Nov. 19, 1989 [To accompany S. 1022] at page 104.

¹⁵ As the Senate Committee report noted:

However, the length and complexity of these administrative proceedings and sanctions have not always provided an adequate and timely remedy for immediately ending specific instances of serious, malicious interference or stemming the overall increase of willful interference. Many times a perpetrator will continue to cause interference until actual suspension or revocation of his or her license or after the imposition of monetary forfeiture by the Commission. Moreover, since the stated maximum penalty is \$500 per day, the Commission argues that it is difficult to convince the U.S. Attorney’s Office to expend their limited resources in pursuing such a prosecution.

¹⁶ Section 312(f)(1) of the Communications Act defines willful as “the conscious and deliberate commission or omission of [any] act, irrespective of any intent to violate” the law.

and for which any intentional interference would almost by definition have to be malicious, as civilians had no business trespassing on those bands. To a significant extent, that is still true today.

However, the Celltinel device fits none of these purposes or descriptions. It certainly is not malicious; it is designed to save lives, enable compliance with law, and enhance public safety; it operates only against those communications which the user chooses to preclude; and it affects only communications of the user or those who have notice of the device and its purpose and who must be deemed to have voluntarily submitted to its effects. Nevertheless, because of the language of §333, Celltinel faces the legal challenge to overcome the statutory prohibition against willful (and not merely malicious) interference.

There have been relatively few instances in the past 18 years since promulgation of §333 in which the FCC has interpreted or applied that provision. Yet, those that have been considered always dealt with a jamming party interfering with another, unsuspecting victim's communication. In contrast, the Celltinel function fits none of the descriptions of the wrongdoing §333 was designed to prevent.

Every case that has been decided by the FCC applying Section 333 and the rules promulgated under it has involved an instance of willful **and** malicious interference. These include intentional interference with police radar¹⁷ emergency repeaters,¹⁸ or Coast Guard communications from shore to ship.¹⁹ Another instance involved an amateur radio operator interfering with other lawful users to obtain exclusive use of a frequency.²⁰ Users of Celltinel would be none of these. On the contrary, all of these instances stand for the proposition that malicious interference implies a second party preventing reception of a radio communication without the knowledge of the target and in a damaging manner.

The Commission's regulations, administratively implementing §333 reinforce this conclusion. §25.160 of the Commission's rules states that "A forfeiture will be imposed and the station license may be terminated for the malicious transmissions of any signal that causes harmful interference with **any other** radio communications or signals." [Emphasis Added] By its own language, the rule was not promulgated to apply to someone affecting his or her own communications. The Celltinel will be used with the knowledge of the affected party and in a manner to enhance that person's and others' safety and to aid and assist in complying with the laws of many states and municipalities.

In a single case, The FCC's Enforcement Bureau issued a public notice to the effect that intentional use of radar jammers is considered "malicious interference" and is strictly prohibited

¹⁷ *Rocky Mountain Radar*, 12 FCC Rcd 15174 (1997), *aff'd*, 12 FCC Rcd 22453 (1997) *aff'd*, *Rocky Mountain Radar, Inc. v. FCC*, 158 F.3d 1118 (10th Cir. 1998).

¹⁸ *Paul E. Holcombe*, Forfeiture Order, 15 FCC Rcd. 13632 (2000); *Robert L. Meyers*, Forfeiture Order, 15 FCC Rcd. 8045 (2000).

¹⁹ *Jack Gerritsen*, Forfeiture Order, 20 FCC Rcd. 19256 (2005)

²⁰ *Daniel Granda*, Forfeiture Order, 10 FCC Rcd. 12781 (2004), *aff'd in relevant part*, 22 FCC Rcd. 3966 (2007).

by the Section 333 of the Act.²¹ However, the Public Notice was issued not to address attempts to control individual cell calls, but rather devices marketed to prevent use in an entire public area by those who consider the very concept of using wireless phones in public to be annoying.²² Unlike the devices to which the Public Notice was directed, the Celltinel would be authorized by the FCC, specifically targets cell phone use that the vehicle owner wishes to avoid, and would always be used in situations with knowledge and to enhance, not evade, enforcement of the law.

In effect, the Celltinel is simply a device that adds control and self determination to a user's environment without causing harm to another. It is no more caustic to cellular communications and creates no more interference to that communication than is created by a simple on/off switch that is programmed to respond to the owner of the vehicle in which the cell device is being used.

B. The Role of Statutory Interpretation

It is appropriate for the Commission to exercise its authority to interpret §333 not to apply to the Celltinel device and permit its certification. In *Chevron USA, Inc. v. Natural Resources Defense Council, Inc.*, 467 US 837, 842-44 (1984), the U.S. Supreme Court had held that courts must give effect to an agency's regulation containing reasonable interpretation of an ambiguous statute. While the language of §333 might appear absolute and plain on its face, its application to a socially beneficial device that enables law abiding behavior and promotes safety is contrary to its purpose and makes it *ipso facto* ambiguous.

Although later cases have limited the *Chevron* doctrine, none of them should apply here. For example in *Christensen v. Harris County*, 529 US 576, [page cite] (2000) the Court held that it was not obligated to defer to a Department of Labor opinion letter, that had not been arrived at by a "formal adjudication or notice-and-comment rulemaking," and such "opinion letter-like interpretations contained in policy statements, agency manuals and enforcement guidelines," all of which lack the force of law, do not warrant *Chevron* deference.

Christensen could be said to limit the applicability of the Commission's 2005 policy statement on cellular jamming. But, in fact, the FCC frequently operates by means of policy statements unaccompanied by formal rulemaking. Rather, interpretations not made through formal adjudication or notice-and-comment rulemaking are entitled to respect under *Skidmore v. Swift & Co.*, 323 US 134, [page cite] (1944), but only to the extent that those interpretations have the power to persuade the Court. Celltinel submits that its purpose and its benefits are quite persuasive. That persuasiveness is enhanced by the fact that to deny certification to Celltinel because of §333 would in fact do harm to the public interest in safety and cause none of the harms and horrors that the section was designed to combat.

The Supreme Court expounded on its deference standard in *United States v. Mead*, 533 U.S. 218, 226-27 (2001). In *Mead*, the Court held that a ruling qualifies for *Chevron* deference when

²¹ Public Notice: "Sale or Use of Transmitters Designed to prevent, jam or Interfere with Cell Phone Communications is Prohibited in the United States," 20 FCC Rcd 11134 (Enforcement Bureau released June 27, 2005).

²² Thus, the notice states: "Advertisements for cellular jammers suggest that the devices may be used on commuter trains, in theaters, hotels, restaurants and other locations the public frequents."

it appears Congress delegated authority to the agency to make rules carrying the force of law, and the agency interpretation claiming deference was promulgated in the exercise of that authority.

Such is the case with §333, where the FCC asked Congress to give it the authority pursuant to its own tailor-made description of the problem and to apply the remedy that it needed. In such an instance, the agency should be afforded deference to how it wishes to apply its authority, and avoid an overly broad application, particularly since the Court also noted it has long recognized "that considerable weight should be accorded to an executive department's [or agency's] construction of a statutory scheme it is entrusted to administer, and that "even in the absence of express delegation of authority on a particular question, agencies charged with applying a statute necessarily make all sort of interpretive choices."²³

VII. SUPPORT FROM PUBLIC SERVICE GROUPS

A short tour on the Internet will demonstrate the breadth of public service organizations that would be expected to support the certification of the Celltinel. Organizations and information sources that have web pages devoted to the dangers of handheld cell phone use and support restrictions to promote public safety include:

1. The Governors Highway Safety Association (GHSA)
<http://www.ghsa.org/html/issues/cellphone.html>
2. The Insurance Institute for Highway Safety
<http://www.iihs.org/news/rss/pr071205.html>
3. The Insurance Information Institute:
<http://www.iii.org/media/hottopics/insurance/cellphones/>
4. CellPhoneSafety.org:
<http://www.cellphonesafety.org/vchicular/>
5. CTIA (The Wireless Association):
<http://www.ctia.org/advocacy/index.cfm/AID/10443>
6. ViaMagazine (The American Automobile Association):
http://www.viamagazine.com/top_stories/auto/cell_phone03.asp
7. Occupational Safety and Health Administration:
http://www.osha.gov/Publications/motor_vehicle_guide.pdf
8. Network of Employers for Traffic Safety:
<http://www.trafficsafety.org/index2.asp>

²³ 533 U.S. 218at 219

All of these and many more organizations recognize the magnitude of the problem, especially with respect to young drivers. Many express dismay over the futility of finding practical solutions. We expect that they will lend support to our approach.

VIII. CONCLUSION

It is clear and convincing that the Celltinel can make a major contribution to highway safety without causing serious injury to any of the services that rely on cellular mobile communications. As an emitter, the Celltinel must be allowed to submit its application for certification and be authorized for sale in the United States.

Chart from The Insurance Institute for Highway Safety
<http://www.iihs.org/laws/cellphonclaws.aspx>

Cellphone laws

March 2008

A jurisdiction-wide ban on driving while talking on a hand-held cellular phone is in place in 6 states (California, Connecticut, New Jersey, New York, Utah, and Washington) and the District of Columbia. Utah has named the offense careless driving. Under the Utah law, no one commits an offense when speaking on a cellphone unless they are also committing some other moving violation other than speeding.

Localities are allowed to ban cellphone use in 6 states (Illinois, Massachusetts, Michigan, New Mexico, Ohio, and Pennsylvania). Localities that have enacted restrictions on cellphone use include: Chicago, IL; Brookline, MA; Detroit, MI; Santa Fe, NM; Brooklyn, North Olmstead and Walton Hills, OH; and Conshohocken, Lebanon and West Conshohocken, PA.

Localities are prohibited from banning cellphone use in 6 states (Florida, Kentucky, Louisiana, Mississippi, Nevada, Oklahoma, Oregon, and Utah).

The use of all cellular phones while driving a school bus is prohibited in 15 states and the District of Columbia.

The use of cellular phones by teens in the graduated licensing system is restricted in 17 states and the District of Columbia.

The table below shows the states that have cell phone laws and whether they are enforced as primary or secondary laws. Under secondary laws, an officer must have some other reason to stop a vehicle before citing a driver for using a cellphone. Laws without this restriction are called primary. California and Utah have unusual provisions noted below.

State	Cellphone restrictions		Enforcement
	Hand-held ban	All cellphone ban	
Alabama	no	no	not applicable
Alaska	no	no	not applicable
Arizona	no	school bus drivers	primary
Arkansas	no	school bus drivers	primary
California	yes (effective 07/01/08)	school and transit bus drivers and drivers younger than 18 (effective 07/01/08)	primary ¹
Colorado	no	learner's permit holders	secondary
Connecticut	yes	learner's permit holders, drivers younger than 18, and school bus drivers	primary
Delaware	no	school bus drivers and learner's permit and intermediate license holders	primary
District of Columbia	yes	school bus drivers and learner's permit holders	primary
Florida	no	no	not applicable